

MEMORANDUM

To: Hon. Jerry Sanders, Mayor
Hon. Jan Goldsmith, City Attorney

Cc: Hon. Councilmembers

From: Councilmember Sherri Lightner



Date: June 1, 2009

Re: Children's Pool

Children's Pool presents an excellent opportunity to improve the way the City partners with the community to abide by the court orders and to improve community participation and oversight. The next plan submitted will have a better chance of success if, unlike the first plan which was rejected by the court, it has the benefit of public and Council input and review.

On May 26, 2009, I requested that your offices respond to questions related to an idea from community members regarding whether or not City dog policies on the beach could be modified in a manner that would be responsive to the court order.

On May 29, 2009, I was informed that the Mayor's office intended to defer to the City Attorney for the sole response, however legal analysis alone will not be sufficient. The purpose of today's memo is to elaborate on my initial requests.

1. I request that the City Attorney's office opine on whether, and if so, how, dogs could be allowed at Children's Pool in a way that achieves the following goals:
 - a. Comply with all state and federal court orders regarding the status of the Children's Pool;
 - b. Comply with all National Oceanic and Atmospheric Administration (NOAA) regulations and with the Marine Mammal Protection Act; and,
 - c. Comply with or exceed the legal requirements for the protection and safety of both humans and marine mammals while minimizing the public safety, traffic and other impacts on surrounding residents and businesses.
 - d. Lawfully cooperates with the natural cycle in which seals return to the sea on their own twice each day, and simply dissuades them from returning.
2. I request that the City Attorney provide this same level of legal analysis for every idea that will be considered by the Mayor's office.

3. I request that the Mayor's office provide the public and the Council the following information:
 - a. A list of all proposals and/or ideas that were considered prior to your selection of the first plan submitted to the court;
 - b. The criteria that was established to analyze each proposal and/or idea;
 - c. The analysis that was used for the plan selected and an explanation of why it was selected; and,
 - d. The analysis that was used for the rejected proposals and/or ideas and an explanation of why they were rejected.
4. I also request that the Mayor's office:
 - a. Give the public the opportunity to provide additional suggestions;
 - b. Provide criteria to assess each proposal/idea, if different from 3a above;
 - c. Provide a report for public review and consideration which compares all proposals/ideas according to 1) cost; 2) effectiveness; and 3) safety for both people and seals;
 - d. Determine whether it is possible to develop a plan that results in no fiscal impact to the City (The legislation currently moving through the state legislature was considered only because it claimed to result in no fiscal impact to the state);
 - e. Provide an element in the plan to prepare for the eventuality of seals moving to other city beaches as a result of dispersal or establishment of a seal sanctuary; and
 - f. Focus the plan on discouraging seals from returning after they leave naturally on their own, as is their habit twice a day, rather than on forcing them to leave.

Regardless of my position in favor of honoring the trust and establishing co-existence of people and seals at Children's Pool, I believe open, fair and thorough consideration of all ideas increases the possibility of achieving community understanding about how the ideas were evaluated, identification of the best solutions, and increased community acceptance of and compliance with the eventual plan.

Thank you in advance for your timely response. If you have questions feel free to contact me, or my Chief of Staff John Rivera at 619-236-6611.